

**IN THE UNITED STATES DISTRICT COURT OF THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: DIGITEK LITIGATION

MDL NO. 1968

THIS DOCUMENT APPLIES ONLY TO:

Scott Ferguson,

NO. 2:09-cv-00442

Plaintiff,

v.

Actavis Totowa, LLC, et al.,

Defendants.

PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS

Comes now undersigned counsel for Scott Ferguson, and voluntarily dismisses the above action. As grounds for this motion, counsel shows the Court as follows:

1. Counsel filed this action on behalf of Mr. Ferguson on April 24, 2009 at his request and after conducting an appropriate pre-filing inquiry.
2. Since the filing of the complaint in this action Mr. Ferguson has not responded to multiple attempts to gather additional information or to execute appropriate releases.
3. As of the date of this response Mr. Ferguson has failed to communicate with counsel.

Based on the forgoing, undersigned counsel cannot oppose the dismissal of this action, without prejudice and would request the Court to take such action.

/s/ E. Kirk Wood
E. Kirk Wood

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CERTIFICATE OF SERVICE

This is to certify that on this 27th day of January, 2010, a copy of the foregoing was served on the following parties to this proceeding via Electronic Filing and/or U.S. Mail, properly addressed and first class postage pre-paid:

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